

Senate Bill No. 1886

CHAPTER 1149

An act to amend the heading of Chapter 2 (commencing with Section 7300) of Part 3 of Division 5 of, to amend Sections 7301, 7301.5, 7303, 7304, 7305, 7306, 7307, 7308, 7310, 7311, 7312, 7313, 7314, 7315, 7316, 7317, 7318, 7320, 7321, 7321.5, and 7322 of, to add Sections 7300.1, 7300.2, 7300.3, 7300.4, 7301.1, 7302.1, 7302.2, 7309.1, 7311.1, 7311.2, 7311.3, 7311.4, 7323, 7324, 7324.1, and 7324.2 to, and to repeal and add Sections 7300 and 7302 of, the Labor Code, relating to equipment safety.

[Approved by Governor September 30, 2002. Filed
with Secretary of State September 30, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1886, Torlakson. Elevators and other conveyances.

Under existing law, with certain exceptions, no elevator may be operated unless it has a permit issued by the Division of Occupational Safety and Health of the Department of Industrial Relations. These provisions of existing law provide for annual inspections of elevators by the division, by inspectors of specified municipalities, or by qualified inspectors of insurance companies. Existing law permits elevators subject to a full maintenance service contract to be inspected every 2 years. Existing law also authorizes elevator permits to be issued on the basis of municipal inspections, as specified. Persons inspecting elevators are required by existing law to obtain a certificate of competency from the division. Existing law provides specified enforcement authority to the division and provides for fees for elevator inspections and permits and field consultations.

This bill would substantially revise and recast this existing law to additionally cover, subject to certain exceptions, defined conveyances, including, in part, escalators, platform and stairway chair lifts, dumbwaiters, material lifts, moving walks, and automated people movers. Among the changes the bill would make, it would require that on or after June 30, 2003, no conveyance, except a platform lift or stairway chair lift installed in a private residence, may be erected, constructed, installed, or materially altered without a permit from the division. The bill would require the Occupational Safety and Health Standards Board to adopt regulations for emergency signal devices for conveyances in addition to elevators. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of

emergency certified qualified elevator mechanics to provide elevator service when a disaster or other emergency exists and there are insufficient regularly certified competent elevator mechanics to cope with the emergency. The bill would require the division to adopt prescribed procedures for 30-day renewable certification of temporary certified competent elevator mechanics where there are no certified qualified elevator mechanics available.

The bill would impose a state-mandated local program by expanding misdemeanor provisions applicable to the operation of an elevator without a permit to also cover other conveyances, except conveyances in a defined private residence. The bill would also revise the applicable misdemeanor penalties. The bill would impose a state-mandated local program by making it a misdemeanor to contract for or authorize the erection, construction, installation, or alteration of a conveyance without a permit in violation of the bill. The bill would also impose a state-mandated local program by making it a misdemeanor for any employer or contractor to engage in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of the bill.

The bill would revise the authority of the division to seek injunctions restraining the operation of elevators without a permit and in a dangerous condition to include all conveyances, would exempt the division from any requirement for an injunction bond, and would make any person who intentionally violates such an injunction subject to prescribed civil penalties.

The bill would make the inspection requirements applicable to all conveyances.

The bill would impose a state-mandated local program by making it a misdemeanor with prescribed punishment for any person owning or having custody, management, or control of the operation of a conveyance, to operate the conveyance while a repair order of the division is outstanding. The bill would revise current inspection requirements to require initial inspection by division inspectors and reinspection by the division's inspectors or any other defined elevator inspector certified as qualified by the division. On and after June 30, 2003, the bill would prohibit these reinspections unless the inspector is certified by the division. The bill would, with certain exceptions, on and after June 30, 2003, prohibit the erection, construction, material alteration, testing, maintenance, repair, or servicing of a conveyance except by a person, firm, or corporation certified by the division, as specified. On and after June 30, 2003, the bill would prohibit any person from erecting, constructing, materially altering, testing, maintaining,



repairing, servicing, removing, or dismantling a conveyance without supervision, unless the person is certified by the division.

The bill would provide for biennial renewal of division certifications under the bill and would provide for fees and continuing education requirements. The bill would make failure of an elevator inspector to comply with certain reporting requirements grounds for revocation of certification. The bill would authorize the division to issue temporary permits to operate a conveyance pending receipt of the applicable fee. The bill would revise civil penalties that may be assessed for operating or permitting the operation of a conveyance that is dangerous or in violation of an order prohibiting use. The bill would provide for an order prohibiting use and provide for civil penalties that may be assessed for constructing, installing, or materially altering a conveyance that is dangerous. The bill would impose a state-mandated local program by making it a misdemeanor with prescribed penalties (1) to enter, use, or direct or cause another to enter or use a conveyance after a prescribed notice has been attached and before it is made safe or (2) to deface, destroy, or remove such a notice without authority of the division. The bill would also make it a misdemeanor with prescribed penalties for any person to operate a conveyance without a permit or without paying the required fee.

The bill would require the division by December 31, 2003, to propose specified final rulemaking proposals for conveyances for review and adoption by the Occupational Safety and Health Standards Board, require the board to provide public notice of the rulemaking proposals, and provide for adoption of those proposals pursuant to specified requirements. The bill would also require prescribed revisions to the regulations. The bill would specify that standards imposed pursuant to it shall not be applied retroactively.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The heading of Chapter 2 (commencing with Section 7300) of Part 3 of Division 5 of the Labor Code is amended to read:

CHAPTER 2. ELEVATORS, ESCALATORS, PLATFORM AND STAIRWAY
CHAIR LIFTS, DUMBWAITERS, MOVING WALKS, AUTOMATED PEOPLE



MOVERS, AND OTHER CONVEYANCES

SEC. 2. Section 7300 of the Labor Code is repealed.

SEC. 3. Section 7300 is added to the Labor Code, to read:

7300. The Legislature finds and declares all of the following:

(a) It is the purpose of this chapter to promote public safety awareness and to assure, to the extent feasible, the safety of the public and of workers with respect to conveyances covered by this chapter.

(b) The use of unsafe or defective conveyances imposes a substantial probability of serious and preventable injury to employees and the public. The prevention of these injuries and protection of employees and the public from unsafe conditions is in the best interest of the people of this state. Therefore, this chapter also establishes minimum standards for persons operating or maintaining conveyances covered by this chapter. These standards include familiarity with the operation and safety functions of the components and equipment, and documented training or experience or both, which shall include, but not be limited to, recognizing the safety hazards and performing the procedures to which they are assigned in conformance with all legal requirements.

(c) This chapter is not intended to prevent the division from implementing regulations, nor to prevent the use of systems, methods, or devices of equivalent or superior quality, strength, fire resistance, code effectiveness, durability, and safety to those required by the law, provided that there is technical documentation to demonstrate that the equivalency of the system, method, or device, is at least as effective as that prescribed in ASME A17.1, ASME A17.3, ASME A18.1, or ASCE 21.

SEC. 4. Section 7300.1 is added to the Labor Code, to read:

7300.1. As used in this chapter:

(a) “ASCE 21” means the Automated People Mover Standards, as adopted by the American Society of Civil Engineers.

(b) “ASME A17.1” means the Safety Code for Elevators and Escalators, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(c) “ASME A17.3” means the Safety Code for Existing Elevators and Escalators, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(d) “ASME A18.1” means the Safety Standard for Platform Lifts and Stairway Chairlifts, an American National Standard, as adopted by the American Society of Mechanical Engineers.

(e) “Automated people mover” has the same meaning as defined in ASCE 21.



(f) “Board” or “standards board” means the Occupational Safety and Health Standards Board.

(g) “Certified qualified elevator company” means any person, firm, or corporation that (1) possesses a valid contractor’s license if required by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code and (2) is certified as a qualified elevator company by the division in accordance with this chapter.

(h) “Certified competent elevator mechanic” means any person who has been determined by the division to have the qualifications and ability of a competent journey-level elevator mechanic and is so certified by the division in accordance with this chapter.

(i) “Conveyance” means any elevator, dumbwaiter, escalator, moving platform lift, stairway chairlift, dumbwaiter, material lift or dumbwaiter with automatic transfer device, automated people mover, or other equipment subject to this chapter.

(j) “Division” means the Division of Occupational Safety and Health.

(k) “Dormant elevator, dumbwaiter, or escalator” means an installation placed out of service as specified in ASME A17.1 and ASME A18.1.

(l) “Elevator” means an installation defined as an “elevator” in ASME A17.1.

(m) “Elevator inspector” means any elevator safety inspector of the division or other elevator inspector determined by the division to be qualified pursuant to this chapter. “Elevator inspector” includes any inspector determined by the division to be qualified to inspect other types of conveyances.

(n) “Escalator” means an installation defined as an “escalator” in ASME A17.1.

(o) “Existing installation” means an installation defined as an “installation, existing” in ASME A17.1.

(p) “Full maintenance service contract” means an agreement by a certified competent elevator company and the person owning or having the custody, management, or control of the operation of the conveyance, if the agreement provides that the certified competent elevator company is responsible for effecting repairs necessary to the safe operation of the equipment and will provide services as frequently as is necessary, but no less often than monthly.

(q) “Material alteration” means an alteration as defined in ASME A17.1 or A18.1.

(r) “Moving walk” or “moving sidewalk” means an installation defined as a “moving walk” in ASME A17.1.



(s) “Permit” means a document issued by the division that indicates that the conveyance has had the required safety inspection and tests and fees have been paid as set forth in this chapter.

(t) “Temporary permit” means a document issued by the division which permits the use of a noncompliant conveyance by the general public for a limited time while minor repairs are being completed or until permit fees are paid.

(u) “Repair” has the same meaning as defined in ASME A17.1 or A18.1. A “repair” does not require a permit.

(v) “Temporarily dormant elevator, dumbwaiter, or escalator” means a conveyance, the power supply of which has been disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the “off” position. In the case of an elevator or dumbwaiter, the car shall be parked and the hoistway doors shall be in the closed and latched position. A wire seal shall be installed on the mainline disconnect switch by an elevator inspector of the division. The wire seal and padlock shall not be removed for any purpose without permission from an elevator inspector of the division. A temporarily dormant elevator, dumbwaiter, or escalator shall not be used again until it has been put in safe running order and is in condition for use. Annual inspections by an elevator inspector shall continue for the duration of the temporarily dormant status. Temporarily dormant status may be renewed annually, but shall not exceed five years. After each inspection, the elevator inspector shall file a report with the chief of the division describing the current condition of the conveyance.

(w) The meanings of building transportation terms not otherwise defined in this section shall be as defined in the latest editions of ASME A17.1 and ASME A18.1.

SEC. 5. Section 7300.2 is added to the Labor Code, to read:

7300.2. Except as provided in Section 7300.3, this chapter covers the design, erection, construction, installation, material alteration, inspection, testing, maintenance, repair, service, and operation of the following conveyances and their associated parts and hoistways:

(a) Hoisting and lowering mechanisms equipped with a car or platform which move between two or more landings. This equipment includes, but is not limited to, the following:

- (1) Elevators.
- (2) Platform lifts and stairway chair lifts.

(b) Power-driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, the following:

- (1) Escalators.
- (2) Moving walks.



(c) Hoisting and lowering mechanisms equipped with a car which serve two or more landings and are restricted to the carrying of material by limited size or limited access to the car. This equipment includes, but is not limited to, the following:

- (1) Dumbwaiters.
- (2) Material lifts and dumbwaiters with automatic transfer devices.
- (d) Automatic guided transit vehicles on guideways with an exclusive right-of-way. This equipment includes, but is not limited to, automated people movers.

SEC. 6. Section 7300.3 is added to the Labor Code, to read:

7300.3. Equipment not covered by this chapter includes the following:

- (a) Material hoists within the scope of standard A10.5 as adopted by the American National Standards Institute.
- (b) Mobile scaffolds, towers, and platforms within the scope of standard A92 as adopted by the American National Standards Institute.
- (c) Powered platforms and equipment for exterior and interior maintenance within the scope of standard 120.1 as adopted by the American National Standards Institute.
- (d) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of standard B30 as adopted by the American Society of Mechanical Engineers.
- (e) Industrial trucks within the scope of standard B56 as adopted by the American Society of Mechanical Engineers.
- (f) Portable equipment, except for portable escalators that are covered by standard A17.1 as adopted by the American National Standards Institute.
- (g) Tiering or piling machines used to move materials to and from storage located and operating entirely within one story.
- (h) Equipment for feeding or positioning materials, including that equipment used with machine tools or printing presses.
- (i) Skip or furnace hoists.
- (j) Wharf ramps.
- (k) Railroad car lifts or dumpers.
- (l) Line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this state.

SEC. 7. Section 7300.4 is added to the Labor Code, to read:

7300.4. This chapter does not apply to work that is not related to standards for conveyances that are (a) incorporated in codes promulgated by the American National Standards Institute or the American Society of Mechanical Engineers or (b) included in regulations of the division, in effect immediately prior to January 1,



2003, prescribing elevator safety orders. Work exempted pursuant to this section includes, but is not limited to, routine nonmechanical maintenance, such as cleaning panels and changing light fixtures.

SEC. 8. Section 7301 of the Labor Code is amended to read:

7301. No conveyance shall be operated in this state unless a permit for its operation is issued by or in behalf of the division, and unless the permit remains in effect and is kept posted conspicuously on the conveyance. Operation of a conveyance without a permit or failure to post the permit conspicuously shall constitute cause for the division to prohibit use of the conveyance, unless it can be shown that a request for issuance or renewal of a permit has been made and the request has not been acted upon by the division.

SEC. 9. Section 7301.1 is added to the Labor Code, to read:

7301.1. (a) On and after June 30, 2003, no conveyance may be erected, constructed, installed, or materially altered, as defined by regulation of the division, unless a permit has been obtained from the division before the work is commenced. A copy of the permit shall be kept at the construction site at all times while the work is in progress and shall be made available for inspection upon request. This section shall not apply to platform lifts and stairway chair lifts installed in a private residence as provided in paragraph (2) or (3) of subdivision (a) of Section 7317.

(b) Before March 1, 2003, the division shall establish an application procedure and all requirements for a permit under this section, which shall include the following:

(1) At a minimum, the applicant for a permit under this section shall meet all of the following requirements:

(A) The applicant shall hold a current elevator contractor's license issued pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

(B) The applicant shall be a certified qualified elevator company.

(C) The applicant shall submit proof of the following types of insurance coverage, in the form of certified copies of policies or certificates of insurance:

(i) Liability insurance to provide general liability coverage of not less than one million dollars (\$1,000,000) for the injury or death of any one person or persons in any one occurrence, with coverage of not less than five hundred thousand dollars (\$500,000) for property damage in any one occurrence.

(ii) Workers' compensation insurance coverage.

In the event of any material alteration, nonrenewal, or cancellation of any insurance required by this subparagraph, the applicant or



permitholder shall submit written notice thereof to the division within five working days.

(2) At a minimum, each application for a permit under this section shall include all of the following:

(A) Copies of specifications and accurately scaled and fully dimensioned plans showing the location of the installation in relation to the plans and elevation of the building; the location of the machinery room and the equipment to be installed, relocated, or altered; and all structural supporting members thereof, including foundations. The plans and specifications shall identify all materials to be employed and all loads to be supported or conveyed. The plans and specifications shall be sufficiently complete to illustrate all details of construction and design.

(B) The name, residence, and business address of the applicant and each partner, or for a corporation of the principal officers and anyone who is authorized to accept service of process or official notices; the number of years the applicant has engaged in the business of constructing, erecting, installing, or altering conveyances; the approximate number of persons to be employed on the permitted job; a declaration signed by the applicant regarding all civil actions to which the applicant is or was a party, whether pending and closed within the last 10 years, which declaration shall provide sufficient information to identify parties, the nature of action, and outcome; and other information as the division may require.

(C) The permit fee.

(3) The division shall establish, and may from time to time amend, a fee for a permit under this section in an amount sufficient to defray the division's actual costs in administering the permit process, including the costs of investigation, revocation, or other associated costs. Permit fees collected by the division are nonrefundable.

(c) (1) The permit shall expire when the work authorized by that permit is not commenced within six months after the date of issuance, or within a shorter period as the division may specify at the time the permit is issued.

(2) The permit shall expire following commencement of work, if the permitholder suspends or abandons the work for a period of 60 days, or for a shorter period of time as the division may specify at the time the permit is issued.

(3) Upon application and for good cause shown, the division may extend a permit that would otherwise expire under this subdivision.

(d) The division may revoke any permit at any time, upon good cause, and after notice and an opportunity to be heard.

SEC. 10. Section 7301.5 of the Labor Code is amended to read:

7301.5. (a) The standards board shall adopt regulations pertaining to conveyances, including, but not limited to, conveyance emergency and signal devices, and the operation of conveyances under fire and other emergency conditions.

(b) Before January 1, 2003, the division shall establish an application procedure and all requirements for certification under this subdivision as an emergency certified competent elevator mechanic. To ensure the safety of the public when a disaster or other emergency exists within the state and the number of certified competent elevator mechanics in the state is insufficient to cope with the emergency, any certified qualified elevator company may, within five business days after commencing work requiring certified competent elevator mechanics, apply to the division, on behalf of all persons performing the work who are not certified competent elevator mechanics, for certification as emergency certified competent elevator mechanics. Any person for whom emergency certification is sought under this subdivision shall be certified by a certified qualified elevator company to have an acceptable combination of documented experience and education to perform work covered by this chapter without direct and immediate supervision. The certified qualified elevator company shall furnish proof of competency as the division may require. The division shall issue an emergency certified competent elevator mechanic certificate upon receipt of acceptable documentation and payment of the required fee. Each certificate issued pursuant to this subdivision shall recite that it is valid for a period of 30 days from the date of issuance and for those particular conveyances and geographical areas as the division may designate, and otherwise shall entitle the person being certified to the rights and privileges of a certified competent elevator mechanic as set forth in this chapter. The division shall renew an emergency certified competent elevator mechanic certificate during the existence of the emergency.

(c) Before January 1, 2004, the division shall establish an application procedure and all requirements for certification under this subdivision as a temporary certified competent elevator mechanic. If there are no certified qualified elevator mechanics available to perform elevator work, a certified qualified elevator company may apply to the division for certification of one or more temporary certified competent elevator mechanics. Any person seeking to work as a temporary certified competent elevator mechanic shall, before beginning work, be approved by the division as having an acceptable combination of documented experience and education to perform work covered by this chapter without direct and immediate supervision. The certified qualified elevator company shall furnish proof of competency as the division may require. The division may issue a temporary certified competent elevator



mechanic certificate upon acceptable documentation and payment of the required fee. Each certificate issued pursuant to this subdivision shall recite that it is valid for a period of 30 days from the date of issuance and while the certificate holder is employed by the certified qualified elevator company that certified the individual as competent. The certificate shall be renewable as long as the shortage of certified competent elevator mechanics continues.

SEC. 11. Section 7302 of the Labor Code is repealed.

SEC. 12. Section 7302 is added to the Labor Code, to read:

7302. The operation of a conveyance without a permit by any person owning or having the custody, management, or control of the operation of the conveyance, is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), imprisonment in the county jail for not more than 10 days, or by both that fine and imprisonment. Each day of operation for each conveyance without a permit is a separate offense. Any person who has requested the issuance or renewal of a permit if the request has not been acted upon by the division may not be prosecuted for a violation of this section.

SEC. 13. Section 7302.1 is added to the Labor Code, to read:

7302.1. (a) Any person who contracts for or authorizes the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) Any employer or contractor who contracts for or engages in the erection, construction, installation, or material alteration of a conveyance without a permit in violation of Section 7301.1 is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

SEC. 14. Section 7302.2 is added to the Labor Code, to read:

7302.2. The division may assess a civil penalty of not more than seventy thousand dollars (\$70,000) against any person, and against any employer or contractor, who contracts for or authorizes the erection, construction, installation, or material alteration of a conveyance without a permit issued pursuant to Section 7301.1.

SEC. 15. Section 7303 of the Labor Code is amended to read:

7303. (a) Whenever any conveyance is operated without a current valid permit issued pursuant to Section 7304, and is in a condition that its use is dangerous to the life or safety of any person, the division or any affected person may apply to the superior court of the county in which the conveyance is located for an injunction restraining the operation of



the conveyance until the condition is corrected. Proof by certification of the division that a permit has not been issued, has expired, or has been revoked, together with the affidavit of any safety inspector of the division or other expert that the operation of the conveyance is dangerous to the life or safety of any person, is sufficient ground, in the discretion of the court, for the immediate granting of a temporary restraining order.

(b) No bond shall be required from the division as a prerequisite for the division to seek or obtain any restraining order under subdivision (a).

(c) Any person who intentionally violates any injunction prohibiting the operation of the conveyance issued pursuant to subdivision (a) shall be liable for a civil penalty, to be assessed by the division, not to exceed seven thousand dollars (\$7,000) for each violation. Each day of operation for each conveyance is a separate violation.

SEC. 16. Section 7304 of the Labor Code is amended to read:

7304. (a) Except as provided in subdivisions (b) and (c), the division shall cause all conveyances to be inspected at least once each year. If a conveyance is found upon inspection to be in a safe condition for operation, a permit for operation for not longer than one year shall be issued by the division.

(b) If a conveyance is subject to a full maintenance service contract, the division may, after investigation and inspection, issue a permit for operation for not longer than two years.

SEC. 17. Section 7305 of the Labor Code is amended to read:

7305. If inspection shows that a conveyance is in an unsafe condition, the division may issue a preliminary order requiring repairs or alterations to be made to the conveyance that are necessary to render it safe, and may prohibit its operation or use until the repairs or alterations are made or the unsafe conditions are removed.

SEC. 18. Section 7306 of the Labor Code is amended to read:

7306. Unless the preliminary order is complied with, a hearing before the division shall be allowed, upon request, at which the owner, operator, or other person in charge of the conveyance may appear and show cause why he or she should not comply with the order.

SEC. 19. Section 7307 of the Labor Code is amended to read:

7307. (a) If it thereafter appears to the division that the conveyance is unsafe and that the requirements contained in the preliminary order should be complied with, or that other things should be done to make the conveyance safe, the division may order or confirm the withholding of the permit and may impose requirements as it deems proper for the repair or alteration of the conveyance or for the correction of the unsafe condition. The order may thereafter be reheard by the division or



reviewed by the courts in the manner specified for safety orders by Part 1 (commencing with Section 6300) of this division, and not otherwise.

(b) The operation of a conveyance by any person owning or having the custody, management, or control of the operation thereof, while an order to repair is outstanding pursuant to subdivision (a), is a misdemeanor punishable by a fine of not more than seven thousand dollars (\$7,000), by imprisonment in the county jail for not more than 30 days, or by both that fine and imprisonment. Each day of operation for each conveyance without a permit is a separate offense.

SEC. 20. Section 7308 of the Labor Code is amended to read:

7308. If the operation of a conveyance during the making of repairs or alterations is not immediately dangerous to the safety of persons, the division may issue a temporary permit for its operation for a period not to exceed 30 days during the making of repairs or alterations.

SEC. 21. Section 7309.1 is added to the Labor Code, to read:

7309.1. (a) On and after June 30, 2003, no conveyance subject to this chapter shall be reinspected by any person unless the person is an elevator inspector employed by the division or certified as qualified by the division.

(b) Before March 1, 2003, the division shall establish an application procedure and all requirements for the certification of elevator inspectors. Each application for certification shall include information as the division may require and the applicable fee. At a minimum, the applicant shall present proof of certification as a qualified elevator inspector by the American Society of Mechanical Engineers or proof of education and experience equivalent to what is required to obtain that certification from the American Society of Mechanical Engineers.

SEC. 22. Section 7310 of the Labor Code is amended to read:

7310. The division may also issue its permit or a permit may be issued on its behalf based upon a certificate of inspection issued by an elevator inspector of any municipality, upon proof to the satisfaction of the division that the safety requirements of the municipality are equal to the minimum safety requirements for conveyances adopted by the board.

SEC. 23. Section 7311 of the Labor Code is amended to read:

7311. All persons inspecting conveyances shall first secure from the division a certificate of competency to make those inspections. The division may determine the competency of any applicant for the certificate, either by examination or by other satisfactory proof of qualifications. The division may rescind at any time, upon good cause being shown therefor, and after hearing, if requested, any certificate of competency issued by it to an elevator inspector.

SEC. 24. Section 7311.1 is added to the Labor Code, to read:



7311.1. (a) On and after June 30, 2003, no conveyance subject to this chapter shall be erected, constructed, installed, materially altered, tested, maintained, repaired, or serviced by any person, firm, or corporation unless the person, firm, or corporation is certified by the division as a certified qualified elevator company. A copy of the certificate shall be kept at the site of the conveyance at all times while any work is in progress, and shall be made available for inspection upon request. However, certification under this section is not required for removing or dismantling conveyances that are destroyed as a result of the complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure and no access is permitted that would endanger the safety of any person. This section shall not apply to platform lifts and stairway chair lifts installed in a private residence as provided in paragraph (2) or (3) of subdivision (a) of Section 7317.

(b) Before March 1, 2003, the division shall establish an application procedure and all requirements for certification under this section as a certified qualified elevator company, consistent with this section. At a minimum, the individual qualifying on behalf of a corporation, the owner on behalf of a sole ownership, or the partners on behalf of a partnership, shall meet either of the following requirements:

(1) Five years' work experience at a journey person level in the elevator industry in construction, installation, alteration, testing, maintenance, and service and repair of conveyances covered by this chapter. This experience shall be verified by current and previously licensed elevator contractors or by current and previously certified qualified elevator companies.

(2) Satisfactory completion of a written examination administered by the division on the most recent applicable codes and standards.

(c) At a minimum, each application for certification as a certified qualified elevator company shall include:

(1) The name, residence and business address, and telephone numbers and other means to contact the sole owner or each partner, or for a corporation of the principal officers and the individual qualifying for the corporation; the number of years the applicant business has engaged in the business of constructing, maintaining, and service and repair of conveyances; and other information as the division may require.

(2) The fee required by this chapter.

(d) Before bidding for or engaging in any work covered by this chapter, a certified qualified elevator company shall submit proof to the division by certified copies of policies or certificates of insurance, of all of the following:



(1) Liability insurance providing general liability coverage of not less than one million dollars (\$1,000,000) for injury or death of any one person or persons in any one occurrence, with coverage of not less than five hundred thousand dollars (\$500,000) for property damage in any of any one person or persons in any one occurrence.

(2) Workers' compensation insurance coverage.

In the event of any material alteration or cancellation of any policy specified in paragraph (1) or (2), the certified qualified elevator company shall provide written notice thereof to the division within five working days.

SEC. 25. Section 7311.2 is added to the Labor Code, to read:

7311.2. (a) On and after June 30, 2003, except as provided in subdivisions (b) and (c) of Section 7301.5, any person who, without supervision, erects, constructs, installs, alters, tests, maintains, services or repairs, removes, or dismantles any conveyance covered by this chapter, shall be certified as a certified competent elevator mechanic by the division. This section shall not apply to platform lifts and stairway chair lifts installed in a private residence as provided in paragraph (2) or (3) of subdivision (a) of Section 7317.

(b) Before March 1, 2003, the division shall establish an application procedure and all requirements for certification under this section as a certified competent elevator mechanic, consistent with all of the following:

(1) At a minimum, a certified competent elevator mechanic applicant shall meet both of the following requirements:

(A) Three years' work experience in the elevator industry in construction, maintenance, and service and repair of conveyances covered by this chapter. This experience shall be verified by current and previously licensed elevator contractors or by current and previously certified qualified elevator companies, as required by the division.

(B) One of the following:

(i) Satisfactory completion of a written examination administered by the division on the most recent applicable codes and standards.

(ii) A certificate of completion and successfully passing the mechanic examination of a nationally recognized training program for the elevator industry, such as the National Elevator Industry Educational Program or its equivalent.

(iii) A certificate of completion of an apprenticeship program for elevator mechanic, having standards substantially equal to those of this chapter, and which program shall be registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship council.



(iv) A certificate or license from another state having standards substantially equal to or more comprehensive than those of this chapter.

(v) The applicant applies on or before December 31, 2003, and within the three years immediately prior to January 1, 2003, has documented at least three years of actual work experience in the elevator industry in construction, maintenance, and service and repair of conveyances covered by this chapter. This experience shall be as a journey-level mechanic working without direct and immediate supervision, and shall be verified by currently and previously licensed elevator contractors or by current and previously certified qualified elevator companies, as required by the division.

(2) At a minimum, each application for certification as a certified competent elevator mechanic shall include the information required by the division and the fee required by this chapter.

SEC. 26. Section 7311.3 is added to the Labor Code, to read:

7311.3. (a) A certificate issued by the division to the certified qualified elevator inspector, certified qualified elevator company, or certified competent elevator mechanic as set forth in Sections 7309.1, 7311.1, and 7311.2, shall have a term of two years. The fee for biennial renewal shall be established by the division in an amount sufficient to defray the division's costs of administering this chapter.

(b) The renewal of all certificates issued under this chapter shall be conditioned upon the submission of a certificate of completion of a course designed to ensure the continuing education of certificate holders on new and existing provisions of the regulations of the board. This continuing education course shall consist of not less than eight hours of instruction that shall be attended and completed within one year immediately preceding any certificate renewal.

(c) The courses shall be taught by instructors through continuing education providers that may include, but shall not be limited to, division programs, association seminars, and joint labor-management apprenticeship and journeyman upgrade training programs. The division shall approve the continuing education providers and curriculum. All instructors shall be approved by the division and shall be exempt from the requirements of subdivision (b), provided that the applicant is qualified as an instructor at any time during the one-year period immediately preceding the scheduled date for renewal.

(d) A certificate holder who is unable to complete the continuing education course required under this section prior to the expiration of his or her certificate due to a temporary disability may apply for a waiver from the division. Waiver applications shall be submitted to the division on a form provided by the division. Waiver applications shall be signed and accompanied by a declaration signed by a competent physician



attesting to the applicant's temporary disability. Upon the termination of the temporary disability, the certificate holder shall submit to the division a declaration from the same physician, if practicable, attesting to the termination of the temporary disability, and a waiver sticker, valid for 90 days, shall be issued to the certificate holder and affixed to his or her certificate.

(e) Continuing education providers approved by the division shall keep uniform records, for a period of 10 years, of attendance of certificate holders, following a format approved by the division. These records shall be available for inspection by the division at its request. Approved continuing education providers shall keep secure all attendance records and certificates of completion. Falsifying or knowingly allowing another to falsify attendance records or certificates of completion of continuing education provided pursuant to this section shall constitute grounds for suspension or revocation of the approval required under this section.

SEC. 27. Section 7311.4 is added to the Labor Code, to read:

7311.4. (a) The division shall establish fees for initial and renewal applications for certification under this chapter as a certified qualified elevator inspector, certified qualified elevator company, or certified competent elevator mechanic based upon the actual costs involved with the certification process, including the cost of developing and administering any tests as well as any costs related to continuing education, investigation, revocation, or other associated costs.

(b) Fees collected pursuant to this chapter are nonrefundable.

SEC. 28. Section 7312 of the Labor Code is amended to read:

7312. The division may at any time, upon good cause being shown therefor, and after notice and an opportunity to be heard, revoke any permit to operate a conveyance.

SEC. 29. Section 7313 of the Labor Code is amended to read:

7313. Each elevator inspector shall, within 21 days after he or she makes an inspection, forward to the division on forms provided by it, a report of the inspection. Failure to comply with this section shall be grounds for the division to cancel his or her certificate.

SEC. 30. Section 7314 of the Labor Code is amended to read:

7314. (a) The division may fix and collect fees for the inspection of conveyances as it deems necessary to cover the actual costs of having the inspection performed by a division safety engineer, including administrative costs, and the costs related to regulatory development as required by Section 7323. An additional fee may, in the discretion of the division, be charged for necessary subsequent inspections to determine if applicable safety orders have been complied with.



(b) The division may fix and collect fees for field consultations regarding conveyances as it deems necessary to cover the actual costs of the time spent in the consultation by a division safety engineer, including administrative and travel expenses.

(c) Whenever a person owning or having the custody, management, or operation of a conveyance fails to pay the fees required under this chapter within 60 days after the date of notification, he or she shall pay, in addition to the fees required under this chapter, a penalty fee equal to 100 percent of the fee. Failure to pay fees within 60 days after the date of notification shall constitute cause for the division to prohibit use of the conveyance.

(d) Any fees required pursuant to this section shall be set forth in regulations that shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These regulations shall become effective immediately upon filing with the Secretary of State.

(e) For purposes of this section, the date of the invoice assessing a fee pursuant to this section shall be considered the date of notification.

SEC. 31. Section 7315 of the Labor Code is amended to read:

7315. Fees shall be paid before the issuance of any permit to operate a conveyance, but a temporary permit may be issued pending receipt of fee payment. No fee shall be charged by the division where an inspection has been made by an inspector of an insurance company or municipality if that inspector holds a certificate as an elevator inspector and an inspection report is filed with the division within 21 days after inspection is made.

SEC. 32. Section 7316 of the Labor Code is amended to read:

7316. All fees collected by the division under this chapter shall be paid into the Elevator Safety Account which is hereby created for the administration of the division's conveyance safety program. The division shall establish criteria upon which fee charges are based and prepare an annual report concerning revenues obtained and expenditures appropriated for the conveyance safety program. The division shall file the report with the Legislative Analyst, the Joint Legislative Audit Committee, and the Department of Finance.

SEC. 33. Section 7317 of the Labor Code is amended to read:

7317. (a) Except as provided in subdivision (b), the following conveyances are exempt from this chapter:

(1) Conveyances under the jurisdiction of the United States government.



(2) Conveyances located in a single-unit private home and not accessible to the public.

(3) Conveyances located in a multiunit residential building serving no more than two dwelling units and not accessible to the public.

(b) Conveyances otherwise exempted pursuant to paragraph (3) of subdivision (a) shall be inspected by the division upon completion of installation prior to being placed in service or after major alterations. The inspection shall be for safety and compliance with orders or regulations applicable to the type of conveyance installed.

SEC. 34. Section 7318 of the Labor Code is amended to read:

7318. Nothing in this chapter limits the authority of the division to prescribe or enforce general or special safety orders.

SEC. 35. Section 7320 of the Labor Code is amended to read:

7320. The division may assess a civil penalty not to exceed one thousand dollars (\$1,000) against any person owning or having custody, management, or control of the operation of a conveyance, who operates the conveyance without a permit or who fails to conspicuously post the permit in the conveyance. No penalty shall be assessed against any person who has requested the issuance or renewal of a permit and the request has not been acted upon by the division.

SEC. 36. Section 7321 of the Labor Code is amended to read:

7321. (a) The division may assess a civil penalty not to exceed seventy thousand dollars (\$70,000) against any person owning or having custody, management, or control of the operation of a conveyance, who operates or permits the operation of the conveyance in a condition that is dangerous to the life or safety of any person, or who operates or permits the operation of the conveyance in violation of an order prohibiting use issued pursuant to Section 7301, 7305, or 7314.

(b) The division shall issue an order prohibiting use and may assess a civil penalty not to exceed seventy thousand dollars (\$70,000) against any person who constructs, installs, or materially alters a conveyance without a permit issued pursuant to Section 7301.1 that is dangerous to the life or safety of any person.

SEC. 37. Section 7321.5 of the Labor Code is amended to read:

7321.5. The division shall enforce Sections 7320 and 7321 by issuance of a citation and notice of civil penalty in a manner consistent with Sections 6317 and 6319. Any person owning or having custody, management, or control of the operation of a conveyance who receives a citation and notice of civil penalty may appeal to the Occupational Safety and Health Appeals Board in a manner consistent with Section 6319.

SEC. 38. Section 7322 of the Labor Code is amended to read:



7322. (a) Once an authorized representative of the division has issued an order prohibiting the use of a conveyance as specified in Sections 7301, 7305, 7314, or subdivision (b) of Section 7321, the person owning or having custody, management, or operation of the conveyance may contest the order and shall be granted, upon request, a hearing to review the validity of the order. The hearing shall be held no later than 10 working days following receipt of the request for hearing.

(b) After a notice is attached as provided in Section 7305 or subdivision (b) of Section 7321, every person who enters or uses, or directs or causes another to enter or use, any conveyance before it is made safe, or who defaces, destroys, or removes the notice without the authority of the division, is guilty of a misdemeanor punishable by a fine of not more than seventy thousand dollars (\$70,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(c) After a notice is attached for failure to comply with the requirements of Section 7301 or 7314, every person who enters or uses, or directs or causes another to enter or use, any conveyance before it is made safe, or who defaces, destroys, or removes the notice without the authority of the division, is guilty of a misdemeanor punishable by a fine of not more than seven thousand dollars (\$7,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

SEC. 39. Section 7323 is added to the Labor Code, to read:

7323. The division shall propose to the standards board for review, and the standards board shall adopt, regulations for the equipment covered by this chapter. Not later than December 31, 2003, the division shall propose final rulemaking proposals to the standards board for review and adoption, which shall include provisions at least as effective as ASME A17.1, ASME A17.3, ASME A18.1, and ASCE 21, as in effect prior to September 30, 2002. Not later than nine months after the effective date of any revision or any substantive revision to any addendum to these codes, the division shall propose additional final rulemaking proposals to the standards board for review and adoption at least as effective as those in the revised code or addendum. The standards board shall notice the division's final rulemaking proposals for public hearing within three months of their receipt and shall adopt the proposed regulations promptly and in accordance with subdivision (b) of Section 11346.4 of the Government Code.

SEC. 40. Section 7324 is added to the Labor Code, to read:

7324. Individuals, firms, or companies certified as described in this chapter shall ensure that installation, service, and maintenance of elevators and other conveyances are performed in compliance with the



provisions contained in the State Fire Prevention and Building Code and with generally accepted standards referenced in that code.

SEC. 41. Section 7324.1 is added to the Labor Code, to read:

7324.1. This chapter shall not be construed to relieve or lessen the responsibility or liability of any person, firm, or corporation owning, operating, controlling, maintaining, erecting, constructing, installing, altering, testing, or repairing any conveyance or other related mechanisms covered by this chapter for damages to any person or property caused by any defect therein.

SEC. 42. Section 7324.2 is added to the Labor Code, to read:

7324.2. The provisions of this chapter added or amended by the act enacting this section shall not be applied retroactively. Equipment subject to this chapter shall be required to comply with the applicable standards in effect on the date of its installation or within the period determined by the board for compliance with ASME A17.3, whichever is more stringent.

SEC. 43. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

